

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re

TIMOTHY DOUGLAS HAYES,
Debtor.

Case No. 16-bk-11983-REF

Chapter Number: 7

315 BOWERY HOLDINGS, LLC and
CBGB FESTIVAL, LLC

Plaintiffs,

v.

TIMOTHY HAYES,
Defendant.

Adversary No. 16-186

STATUS REPORT

Pursuant to the Court's December 23, 2016 Order in this Adversary Proceeding (Adv. Dkt. No. 33), by which the Court stayed the Nondischargeability Action pending a final determination and judgment in the New York state court action *SW Productions, Inc. v. CBGB Festival, LLC*, No. 652990/2014 (Sup. Ct. N.Y. County 2014) (the "New York Action"), and the Court's January 12, 2018 Order directing Plaintiffs to file Status Reports beginning on January 19, 2018 and then every three months thereafter (Adv. Dkt. No. 44), Plaintiffs 315 Bowery Holdings, LLC and CBGB Festival, LLC (together, "CBGB"), through their undersigned counsel, hereby submit this Status Report outlining the status of the New York Action since the last status report (Adv. Dkt. No. 38).

1. By order dated November 20, 2017 the Court granted CBGB's motion seeking to amend CBGB's Second Amended Answer and Counterclaims to add an additional third-party defendant, filed on September 8, 2017 (New York Action, Dkt. No. 344). The amended pleading was answered by SW Productions, Inc. ("SWP"), Stuart Weissman, and the additional third-party, Spectrum Wide Productions, LLC ("Spectrum"), on December 26, 2017 (New York

Action, Dkt. No. 359). At this time, the additional third-party defendant Spectrum does not have any known connection to the Debtor-Defendant here.

2. By order dated November 29, 2017 the Court granted CBGB's Order to Show Cause seeking discovery sanctions against Plaintiff, filed on September 29, 2017 (New York Action, Dkt. No. 254), striking the Plaintiff's complaint. The order did not affect any of the claims against Debtor-Defendant Hayes.

3. Discovery is nearly complete. On January 10, 2018, the parties appeared for a status conference. At this time, the Court entered an Order setting a date for the remaining deposition in the action (other than Hayes) and deadlines for the parties to resolve most of the outstanding written discovery issues to be addressed, all in January or February 2018. (New York Action, Dkt. No. 359). The next status conference has been set for February 8, 2018 (*id.*).

4. The Court indicated that it intends to set a new discovery cut-off date as part of the February 8, 2018 conference.

5. The parties are working to resolve a date for Debtor-Defendant Hayes's deposition. On October 25, 2017, this Court granted CBGB's request to lift the bankruptcy stay for the limited purpose of conducting the deposition of Timothy Hayes in both the New York and Nondischargeability Actions (Adv. Dkt. No. 42). A date originally noticed for January 2018 was adjourned on consent due to limitations on Mr. Hayes's availability.

Respectfully Submitted: January 19, 2018

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By: /s/ Kimo S. Peluso

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